

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re Flint Water Cases.

Judith E. Levy
United States District Judge

This Order Relates To:

ALL CASES

**ORDER GRANTING MOTION TO SEAL PORTIONS OF THE
MOTION TO EXCLUDE TESTIMONY OF CLASS
REPRESENTATIVES, CLASS MEMBERS, AND COMMUNITY
MEMBERS AND ACCOMPANYING EXHIBITS [2719]**

Before the Court is Veolia North America, LLC, Veolia North America, Inc., and Veolia North America Operating Services, LLC's ("VNA") Motion to Seal Portions of the Motion to Exclude the Testimony of Class Representatives, Class Members, and Community Members ("Motion to Seal"). (ECF No. 2719.) This Motion to Seal asks the Court to seal portions of the Brief in Support of the Motion to Exclude, to seal portions of Exhibits 2 and 3 attached to the Motion to Exclude, and to provisionally seal Exhibit 4 to the Motion to Exclude. (ECF No. 2717.) VNA proposes redacting "medical and other personal information of class

representatives and identifying information of minor children and their medical conditions.” (*Id.* at PageID.90122–90123.) Under Local Rule 7.1, Class Plaintiffs consented to the relief VNA requests. (ECF No. 2719, PageID.90123.)

Eastern District of Michigan Local Rule 5.3 governs civil material filed under seal or with redactions. “There is a strong presumption in favor of open judicial records.” *Shane Grp., Inc. v. Blue Cross Blue Shield of Mich.*, 825 F.3d 299, 305 (6th Cir. 2016). A request for a seal must be “narrowly tailored . . . in accord with applicable law.” E.D. Mich. LR 5.3(b)(2).

The Court may grant a motion to seal or redact “only upon a finding of a compelling reason why certain documents or portions thereof should be sealed.” *Id.* at (b)(3)(B)(i). The Court must make its decision based on the following three factors: “why the interests in support of nondisclosure are compelling, why the interests supporting access are less so, and why the seal itself is no broader than necessary[.]” *Shane Grp.*, 925 F.3d at 306.

First, the Court considers VNA’s request to seal portions of their Brief in Support of Motion to Exclude Testimony of Class

Representatives, Class Members, and Community Members, and portions of Exhibits 2 and 3 to that Motion. When applying the first factor to the identifying information and medical information of minor children, the Court finds that there is an interest in protecting these children from identification at this stage in the litigation. Moreover, Federal Rule of Civil Procedure 5.2(a) contemplates this interest where it states that any filing with the Court that contains the name of an individual known to be a minor “may include only . . . the minor’s initials.” *Id.* The redactions at issue are narrowly tailored and will not prevent the public from assessing the record the Court relies upon in its decisions. *Shane Group*, 825 F.3d at 305. As to medical and sensitive personal information regarding individuals, the Court finds that such information remains confidential for the same reasons set forth in its previous orders related to this type of material. (See, e.g., ECF Nos. 1290, 1916, 1928, 2392.) The same analysis and reasoning applies here in favor of sealing in a narrowly tailored manner.

VNA also moves for the Court to provisionally seal Exhibit 4 of VNA’s Motion to Exclude Testimony of Class Representatives, Class Members, and Community Members in its entirety to afford Plaintiffs the

time to identify all the confidential information it contains. (ECF No. 2719, PageID.90129.) Having considered this Exhibit, the Court finds that there is potentially confidential information that warrants this request. Accordingly, Exhibit 4 will be provisionally sealed.

To clarify the record, the Court notes that the Motion to Seal was originally filed improperly, because the Motion to Seal, which included the unredacted documents to be sealed as exhibits, was itself filed under seal. (ECF No. 2716.) However, VNA refiled their Motion to Seal without the unredacted exhibits. (ECF No. 2719.) The sealed Motion to Seal functionally meets the requirements of Local Rule 5.3(b)(vi) by providing an unredacted version of the documents to be sealed, filed under seal, which indicates the portions of the documents to be sealed. Because the purpose of the Rule is fulfilled by VNA's filing of the Motion at issue here, the Court will not require further action from VNA to correct the original error. It notes these facts so that members of the public can identify the submissions relevant to this motion.

Accordingly, VNA's motion to seal is granted.

IT IS SO ORDERED.

Dated: December 4, 2023
Ann Arbor, Michigan

s/Judith E. Levy
JUDITH E. LEVY

United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or first-class U.S. mail addresses disclosed on the Notice of Electronic Filing on December 4, 2023.

s/William Barkholz
WILLIAM BARKHOLZ
Case Manager